

Exhibit 2

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John Van Merkenstein - April 19, 2021

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO. 18-MD-2865 (LAK)

IN RE:)
)
)
CUSTOMS AND TAX ADMINISTRATION OF)
THE KINGDOM OF DENMARK)
(SKATTEFORVALTNINGEN) TAX REFUND)
SCHEME LITIGATION)
)
)
This document relates to case nos.)
19-cv-01783; 19-cv-01788; 19-cv-01794;)
19-cv-01798; 19-cv-01918)
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C O N F I D E N T I A L

REMOTE VTC VIDEOTAPED DEPOSITION UNDER ORAL
EXAMINATION OF
JOHN VAN MERKENSTEIJN
DATE: April 19, 2021

REPORTED BY: MICHAEL FRIEDMAN, CCR

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42 (Pages 162 to 165)

<p style="text-align: right;">Page 162</p> <p>1 A We communicated to him that we were 2 not part of that bank in Germany that had 3 been bought by Matt and Jerome, and got to a 4 point where he understood we weren't part of 5 that exercise, which is what he was upset 6 about. 7 And therefore, he offered to 8 continue to trade with us, but not with Matt 9 and Jerome. 10 Q Would the same entities, the same 11 plans be used going forward? 12 A Well, the entities we had as Argre 13 which, in the end, stop trading, there was a 14 period where we talked about toning down the 15 Argre trades or something, but it got too 16 complicated. And in the end, there were no 17 more Argre-related plans and we had to 18 substitute plans. 19 Q Okay. Were there any discussions 20 with Mr. Shah about how many plans could be 21 formed to continue the trading? 22 A Yes. As before, he would tell us 23 how many plans we could have. 24 Q All right. And so, for this period 25 of time, do you recall how many plans he said</p>	<p style="text-align: right;">Page 163</p> <p>1 you could have? 2 A I don't have an exact recollection. 3 I think it was 30-something. 4 Q Was this the point in time in which 5 the fee and profit-sharing arrangement 6 changed from two-thirds to 75 percent? 7 A I don't remember when that shifted, 8 percentages changed. 9 Q Okay. But whenever that shift 10 happened, the new split was 75 percent Solo, 11 25 percent to the plan? 12 A I believe so. 13 Q All right. Just bear with me. I'm 14 crossing one or two exhibits off my list 15 here, which is a good thing. 16 A Sorry? 17 Q I'm just crossing a few documents 18 off the list. That's always a good thing, so 19 bear with me. 20 Can you turn, please, to 21 Exhibit 2265? 22 A 2265. It's the other volume. 23 Q Sorry. Okay. If you can turn to 24 the last page -- or the third page, at least, 25 at the top of it?</p>
<p style="text-align: right;">Page 164</p> <p>1 A (Witness reviewing.) 2 Yes. 3 Q There's an e-mail from Peter Wells. 4 Was he an attorney at Kaye Scholer 5 assisting with the plans? 6 A He was a partner, I believe, at 7 Kaye Scholer, yes. 8 Q All right. He writes to you and 9 Mr. Markowitz, "I wanted to follow up with 10 you both on the status of the additional 11 information regarding the new ex-dividend 12 trades. As you may recall, you were going to 13 provide us with, among other things, a list 14 who is going to be involved in the various 15 partnerships and related LLCs," and it goes 16 on. 17 The reference to the "new 18 ex-dividend trades," was that the same 19 dividend trading strategy through Solo, but 20 with new plans? 21 A Yes. This is where Argre had 22 split, and Rich and I were going to do 23 separate. 24 Q Okay. So the -- you had made known 25 to the lawyers at Kaye Scholer that a new set</p>	<p style="text-align: right;">Page 165</p> <p>1 of plans were going to be set up to continue 2 the trading? 3 A Well, more than that. Once Argre 4 split, Rich and I had no office, no 5 secretary, no staff, no assistants. 6 And since Kaye Scholer had been 7 involved in the trading from day one, and 8 knew every aspect of it, I asked the firm not 9 only to continue to work with us, but also to 10 fulfill the administerial functions. 11 So I told Michael Ben-Jacob that we 12 needed paralegal or other clerical 13 assistance, because we had nobody that worked 14 for us at all. And therefore, I asked him to 15 undertake all of the organizational 16 paperwork, all of the documentation 17 paperwork. 18 And Michael assigned that work to 19 Peter Wells to supervise. And then he had 20 associates and paralegals do the mechanical 21 parts. 22 So they did both the clerical 23 administrative stuff as well as the 24 continuing legal advice. 25 Q The additional roles that you asked</p>

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<p>1 Kaye Scholer to take on, were those things 2 that Argre Management employees had been 3 doing during the prior period?</p> <p>4 A Yeah, had done internally because 5 we had staff. We had a secretary. We had 6 Adam LaRosa, who was sophisticated.</p> <p>7 So, organizing LLCs, and all the 8 mechanical documentation that went with 9 setting up accounts and "do you know your 10 customer," whatever it all entailed, a lot of 11 that mechanical stuff could be done within 12 Argre, but it couldn't be done by Rich and 13 me.</p> <p>14 Q Got it.</p> <p>15 Was Kaye Scholer paid separately 16 for that aspect of its work than it was for 17 the legal services?</p> <p>18 A Well, we didn't ask them to break 19 it out. They just paid -- they just charged 20 us for whatever they did.</p> <p>21 Q Okay. So it was just hourly 22 charges just like the other stuff --</p> <p>23 A Yeah. You know, I just -- I agreed 24 with Michael that we would be willing to pay 25 full freight, pay a lot more, but not have to</p>	<p>1 go hire our own secretary and rent our own 2 office and do all that stuff.</p> <p>3 Q Got it.</p> <p>4 Your reference to "Michael," is 5 that Michael Ben-Jacob?</p> <p>6 A Michael Ben-Jacob, yes.</p> <p>7 Q For this work, was he the more 8 senior partner supervising the group?</p> <p>9 A Yeah. He had been involved in this 10 from day one, and so he supervised 11 everything.</p> <p>12 Q Got it. Okay.</p> <p>13 In response to Mr. Wells' e-mail on 14 the prior page, you write, "Among other 15 things, we are talking with London on Friday 16 to review onboarding information required and 17 process."</p> <p>18 Do you know who you're referring to 19 there when you say you're going to speak to 20 London?</p> <p>21 A No, I don't.</p> <p>22 Q Okay. Then you write, "We are 23 making a list of LLC and plan names. Any 24 suggestions?"</p> <p>25 And when you're talking about a</p>
<p style="text-align: center;">Page 168</p> <p>1 list there of LLCs and plan names, this is 2 for the continued participation in the 3 dividend arbitrage trading?</p> <p>4 A Correct.</p> <p>5 Q Okay. And at the top of the page, 6 it's part of an e-mail back from Mr. Wells.</p> <p>7 And he writes, "I was thinking 8 about some ideas for names. The primary 9 names were just random, but as we discussed, 10 I was pairing them with names that sound like 11 financial entities; example, Starfish Capital 12 LLC, Granite Partners LLC, Basalt Ventures 13 LLC, Dolomite Management LLC."</p> <p>14 What had you discussed with 15 Mr. Wells about having the names of the new 16 entities sound like financial entities?</p> <p>17 A Well, getting a name for an entity 18 is very difficult because most names are 19 used. So adding an adjective behind the name 20 makes it distinct from others who might have 21 the same first word. It didn't really matter 22 what the second word was.</p> <p>23 I often form companies with 24 "international." "Something-Something 25 International." "Something-Something</p>	<p style="text-align: center;">Page 169</p> <p>1 Capital."</p> <p>2 And Peter apparently did, too.</p> <p>3 Q And when you tended to form 4 entities where you used names like that, that 5 was because you had been expecting to enter 6 into some kind of financial transactions 7 using those entities?</p> <p>8 A Well, it didn't matter what the 9 name was. I mean, I've done entities that 10 have names that have nothing to do with what 11 they do.</p> <p>12 Q Okay. You respond to Mr. Wells, 13 and say, "Good, but only one name from rocks, 14 one from fish, et cetera. We want to make 15 them sounds dissimilar."</p> <p>16 When you refer to "we," are you 17 talking about you and Mr. Markowitz?</p> <p>18 A Yes, and Mr. Klugman.</p> <p>19 Q Why did the three of you want to 20 make the names of the entities sound 21 dissimilar?</p> <p>22 A Well, you always want to make them 23 sound dissimilar. When I was first 24 practicing law, I had a corporate senior 25 partner who had a client that had similar</p>